

REMARKS/ARGUMENTS

The Office Action rejected claims 1-4, 6, 8-14 and 18-20 as anticipated by Recigno (US 616,899). Claims 5, 7, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Recigno (US 5,287,266) as applied to the claims above, in view of Cummings Jr. et al (US 6,345,260).

Applicants respectfully traverse the Section 102-103 rejections and submit that all claims are in condition for allowance.

The Section 102 Rejection

Claims 1 - 4, 6, 8 - 14, 16 and 18 - 20 were rejected under 35 U.S.C. 102(b) as being anticipated by Recigno (US 5,616,899) as follows:

As per claims 1, 11 and 20, Recigno discloses a system and method adapted to support dental patient scheduling, comprising:

a network to communicate information relating to a manufacturing stage (column 3, lines 7 - 9, "a plurality of microcomputers located in various departments within the dental laboratory that are linked in a network arrangement");

one or more patient computers coupled to the network (column 5, lines 30 - 32, a "network 6 of system 5 that comprises eight client workstations located in and corresponding to various departments");

a server coupled to the network (column 6, lines 6 - 7, "the server of each network of system 5 is an unattended microcomputer"), the server communicating manufacturing progress information with the patient computer and performing patient scheduling when one or more dental appliances reach a predetermined manufacturing progress (column 17, lines 59 - 62 "the sequence of process steps, the various workstations at which these steps will be performed, the estimated start time, estimated finish time, actual start time, actual finish time").

Applicants respectfully traverse the rejection. Recigno relates to a system for managing the processing of dental appliances being fabricated in a dental laboratory. The fabrication of such appliances is achieved in a series of iterations, the first of the iterations occurring upon receipt of a prescription from the doctor for fabricating the appliance therefrom. Subsequent iterations occur upon return of the appliance by the doctor to the laboratory for additional processing. Data indicative of the history of the fabrication of the appliance through all of the iterations is available to the operator of the laboratory for analysis and the effective and efficient management of the laboratory.

The Office Action asserts that column 5, lines 30 – 32 of Recigno shows a "network 6 of system 5 that comprises eight client workstations located in and corresponding to various departments" and that the client workstations correspond to the one or more patient computers coupled to the network.

Applicants respectfully traverse the comparison. The claimed "one or more patient computers coupled to the network" relates to the patient's computers rather than the computers at the laboratory's network. Col. 5 of Recigno relates to "eight client workstations 14A through 14H located in and corresponding to various departments of the dental laboratory" and not that of patient computers.

Since at least the one or more patient computers coupled to the network is missing in Recigno, the Section 102 Rejection should be withdrawn.

Recigno also fails to show the "a server coupled to the network, the server communicating manufacturing progress information with the patient computer and performing patient scheduling when one or more dental appliances reach a predetermined manufacturing progress." The rejection cited to the paragraph on Col. 17, lines 59, the content of which is reproduced below for completeness:

This system generated information contained within the Workstations Box includes the sequence of process steps, the various workstations at which these steps will be performed, the estimated start time, estimated finish time, actual start time and actual finish time. The estimated start and finish times are based upon predetermined estimates inputted in the system during set-up and

maintenance. The relationships between case types, process types and workstations has been previously established in the system by completion of forms during maintenance, e.g., the Case Types Form 58 shown in FIG. 5 and Case Types To Process Types To Workstation Links Form 78 shown in FIG. 7.

As can be seen, Recigno absolutely does not show communicating manufacturing progress information with the patient computer. This is one independent basis for traversing the Section 102 rejection.

Further, Recigno fails to show "performing patient scheduling when one or more dental appliances reach a predetermined manufacturing progress." At best, Recigno shows manufacturing timing and scheduling with doctors. However, Recigno does not show patient scheduling. This is a third independent basis for traversing the Section 102 rejection.

Given that Recigno fails to show at least three elements recited in claims 1 and 11, Recigno cannot anticipate claims 1 and 11 as well as those dependent therefrom. Hence, withdrawal of the Section 102 rejection on claims 1 - 4, 6, 8 - 14, 16 and 18 - 20 is requested.

The Section 103 Rejection

Claims 5, 7, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Recigno (US 5,287,266) as applied to the claims above, in view of Cummings Jr. et al (US 6,345,260).

Cummings shows a system and method for scheduling appointments at any time with a professional, such as a doctor, dentist, veterinarian, or the like, or a professional service, such as a medical testing facility and the like, even when the office of the professional or professional service is closed. The office action noted that:

Cummings Jr. et al (US 6,345,260) teaches a medical/dental scheduling system that incorporates the Internet and uses email in sending status messages of appointments (page 9, lines 57 - 59). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine Recigno's dental prosthetic manufacturing system with the Cummings Jr. et al system of sending email messages to patients or doctors because such a

combination would better inform those having dental appliances manufactured, either for themselves or for their patients. Allowing people to be better informed of the availability of their dental appliance would allow them to receive them sooner and would alleviate the pain and suffering of people who are waiting for the proper medial appliances.

As per claims 7 and 17, the Office Action noted that:

Recigno teaches a system for managing cases in a dental laboratory and the monitoring of the steps in manufacturing dentures and dental prosthetics. The invention incorporates a database, a network system with a server, transmission of electronic messages and communications between workstations, as well as scheduling of manufacturing steps based on start times and finish times. Recigno does not teach email or electronic calendar.

Cummings Jr. et al (US 6,345,260) teaches a medical/dental scheduling system that incorporates using the Internet to provide "continuous updates" (column 9, line 63), uses email in the scheduling of appointments (page 9, lines 57 - 59) and incorporates using an electronic calendar interface to schedule appointments (column 9, lines 63 - 67). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine Recigno's dental prosthetic manufacturing system with the Cummings Jr. et al system of scheduling dental appointments on a calendar interface via the Internet because this would shift the appointment scheduling duties and responsibilities from the dental office onto the patient. This would benefit the patient by allowing said patient to visually see what appointment times were available and benefit the dental facility by saving time and money currently being spent on providing customer service via the telephone and walk in inquiries.

Applicants note that the present rejection does not establish *prima facie* obviousness under 35 U.S.C. § 103 and M.P.E.P. §§ 2142-2143. The Examiner bears the initial

burden to establish and support *prima facie* obviousness. *In re Rinehart*, 189 U.S.P.Q. 143 (CCPA 1976). To establish *prima facie* obviousness, three basic criteria must be met. M.P.E.P. § 2142. First, the Examiner must show some suggestion or motivation, either in the Recigno reference or in the knowledge generally available to one of ordinary skill in the art, to modify the reference so as to produce the claimed invention. M.P.E.P. § 2143.01; *In re Fine*, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Secondly, the Examiner must establish that there is a reasonable expectation of success for the modification. M.P.E.P. § 2142. Thirdly, the Examiner must establish that the prior art references teach or suggest all the claim limitations. M.P.E.P. § 2143.03; *In re Royka*, 180 U.S.P.Q. 580 (CCPA 1974). The teachings, suggestions, and reasonable expectations of success must be found in the prior art, rather than in Applicant's disclosure. *In re Vaeck*, 20 U.S.P.Q.2d 1438 (CAFC 1991). Applicant respectfully submits that a *prima facie* case of obviousness has not been met because the Examiner's rejection fails on at least two of the above requirements.

First, the Recigno reference fails to teach or suggest all the claim limitations of independent claims 1 and 11. As discussed above, Recigno fails to show 1) one or more patient computers coupled to the network; 2) communicating manufacturing progress information with the patient computer; and 3) performing patient scheduling when one or more dental appliances reach a predetermined manufacturing progress.

Cummings also fails to show 1) one or more patient computers coupled to the network; 2) communicating manufacturing progress information with the patient computer; and 3) performing patient scheduling when one or more dental appliances reach a predetermined manufacturing progress.

Secondly, Applicant notes that no motivation or suggestion, either in the cited art reference or in the knowledge generally available to one of ordinary skill in the art, has been cited by the Examiner to modify the Recigno reference so as to produce the claimed invention. Further, Applicants fail to identify any motivation to modify the reference teaching so as provide a system adapted to support dental patient scheduling, comprising: a network to communicate information relating to a manufacturing stage; one or more patient computers coupled to the network; and a server coupled to the network, the server communicating manufacturing progress

information with the patient computer and performing patient scheduling when one or more dental appliances reach a predetermined manufacturing progress as presently claimed. In fact, the Recigno reference teaches away from Applicant's invention as one skilled in the art would have been generally discouraged from performing patient scheduling based on manufacturing progress.

Applicant points out that the Examiner bears the initial burden of factually establishing and supporting any *prima facie* conclusion of obviousness. *In re Rinehart*, 189 U.S.P.Q. 143 (CCPA 1976); M.P.E.P. § 2142. If the Examiner does not produce a *prima facie* case, the Applicant is under no obligation to submit evidence of nonobviousness. *Id.* In the instant case, the Examiner has not pointed to any evidence in Recigno, or how knowledge of those skilled in the art, provide a suggestion or motivation to modify the reference teaching so as to produce the claimed invention of claims 1 and 11. See *In re Zurko*, 59 U.S.P.Q.2d 1693 (Fed. Cir. 2001) ([I]n a determination of patentability the Board cannot simply reach conclusions based on its understanding or experience - or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings).

Under *Vaech*, absent any evidence of a cited suggestion or reasonable motivation in the Recigno reference, or knowledge of those skilled in the art, for *prima facie* obviousness of the claims has not been established. As such, it is respectfully requested that the § 103(a) rejection be withdrawn and the claims be allowed.

Appl. No. 09/621726
Amdt. dated February 23, 2004
Reply to Office Action of May 23, 2003

PATENT

CONCLUSION

Applicant believes that the above discussion is fully responsive to all grounds of rejection set for the in the Office Action dated May 23, 2003.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,

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